

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
CHICAGO, ILLINOIS

## FAX COVER SHEET

ELLSWORTH INDUSTRIAL PARK SITE

# NOTICE

It is U.S. EPA's standard practice to issue a press release soon after it issues Superfund notice letters. As a result, you may receive calls concerning this matter within the next few days.

0102-2-11

0102-2-16



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 5**  
**77 WEST JACKSON BOULEVARD**  
**CHICAGO, IL 60604-3590**

**AUG 01 2002**

**REPLY TO THE ATTENTION OF**

**GENERAL NOTICE LETTER**  
**URGENT LEGAL MATTER – PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

**(ADDRESSEES ON ATTACHED SERVICE LIST)**

**Re: Ellsworth Industrial Park Site**  
**Wisconsin Avenue**  
**Downers Grove, DuPage County, Illinois**  
**(the "Site")**

**Dear Sir:**

This letter notifies you of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9607(a), as amended (CERCLA), that you may incur or may have incurred with respect to the above referenced Site. This letter also notifies you of potential response activities at the Site, which you are being asked to perform or finance.

**NOTICE OF POTENTIAL LIABILITY**

The United States Environmental Protection Agency (U.S. EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the above-referenced Site. U.S. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a potentially liable party or parties will properly perform or finance such action, U.S. EPA may perform these actions pursuant to Sections 104 and 106 of CERCLA.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. Sections 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6973, as amended

(RCRA), and other laws, potentially liable parties may be ordered to perform response actions deemed necessary by U.S. EPA to protect the public health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the Site. Such actions and costs may include, but are not limited to, expenditures for conducting a Remedial Investigation/Feasibility Study (RI/FS), conducting a Remedial Design/Remedial Action RD/RA, and other investigations, planning, response oversight, and enforcement activities. In addition, potentially liable parties may be required to pay for damages for injury to, destruction of or loss of natural resources, including the cost of assessing such damages.

U.S. EPA has evaluated information in connection with the investigation of the Site. Based on this information, U.S. EPA believes that you may be a potentially responsible party (PRP) with respect to this Site. Potentially responsible parties under CERCLA include current and former owners and operators of the Site as well as persons who arranged for disposal or treatment of hazardous substances sent to the Site, or persons who accepted hazardous substances for transport to the Site.

By this letter, U.S. EPA notifies you of your potential liability with regard to this matter and encourages you to voluntarily perform or finance those response activities that U.S. EPA determines are necessary at the Site. In accordance with CERCLA and other authorities, U.S. EPA has already undertaken certain actions and incurred certain costs in response to conditions at the Site. These response actions include the initial investigation and assessment of contamination at the Site. U.S. EPA may expend additional funds for response activities at the Site under the authority of CERCLA and other laws.

#### **POTENTIAL FUTURE SPECIAL NOTICE AND NEGOTIATION MORATORIUM**

You may receive an additional notice from U.S. EPA in the future. That notice would either inform you that U. S. EPA is using the CERCLA Section 122(e) special notice procedures to formally negotiate terms of a consent order or consent decree to conduct or finance site response activities, or it would inform you that U.S. EPA is not using such procedures pursuant to Section 122(a). If U.S. EPA does not use Section 122(e) special notice procedures, the notice would specify why the special notice procedures were not appropriate in this case.

Under Section 122(e), U.S. EPA has the discretionary authority to use the special notice procedures if U.S. EPA determines that such procedures would facilitate an agreement between U.S. EPA and the PRPs and would expedite remedial action at the site. Use of the special notice procedures triggers a moratorium on certain U.S. EPA activities at the site. The purpose of the moratorium is to provide a period of time when PRPs and U.S. EPA may enter into formal negotiations for PRP conduct or financing of the response activities at the site.

If the U.S. EPA uses a Special Notice letter, the initial moratorium for the RI/FS will last for 60 days after the notice. If U.S. EPA determines that an offer to perform or finance the activities is submitted by the PRPs within those 60 days, and that the offer is a good faith offer, a 30 day

extension will be provided pursuant to statute for further negotiations. After completion of the RI/FS and issuance of a Record of Decision (ROD) documenting U.S. EPA's selection of a Remedial Action for the Site, the U.S. EPA may issue a Special Notice letter for RD/RA negotiations. That letter will initiate a moratorium for the RD/RA that will last for 60 days after the notice. If U.S. EPA determines that an offer is submitted by the PRPs within those 60 days, and that the offer is a good faith offer, a 60 day extension will be provided pursuant to statute for further negotiations.

If U.S. EPA determines that a good faith offer has not been submitted within the first 60 days of the moratorium period, U.S. EPA may terminate the negotiation moratorium under Section 122(c)(4) of CERCLA. U.S. EPA then may commence such cleanup or enforcement actions as it deems appropriate. In the absence of an agreement with the parties to perform or finance the necessary cleanup activities, U.S. EPA may undertake these activities and pursue civil litigation against the parties for reimbursement of site expenditures. Alternatively, U.S. EPA may issue an administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities, or may commence civil litigation pursuant to Section 106(a) of CERCLA to obtain similar relief. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$27,500 per day, under Section 106(b) of CERCLA, or imposition of treble damages, under section 107(c)(3).

### **SITE RESPONSE ACTIVITIES**

At present, U.S. EPA expects that the following response actions, at a minimum, will be necessary at the site as soon as possible:

1. Remedial Investigation (RI) to identify the site characteristics and to define the nature and extent of soil, air, surface water, and groundwater contamination at the Site and risks posed by the Site.
2. Feasibility Study (FS) to evaluate alternative remedial actions to remove, treat, or contain hazardous substances, pollutants, and contaminants at the Site.

### **INFORMATION TO ASSIST RESPONSIBLE PARTIES**

U.S. EPA would like to encourage good faith negotiations between the PRPs and U.S. EPA, as well as among the PRPs. To assist PRPs in preparing a proposal and in negotiating with U.S. EPA concerning this matter, U.S. EPA is:

1. Attaching a list of names and addresses of PRPs to whom this notification is being sent. This list represents EPA's preliminary findings on the identities of PRPs. Inclusion on, or exclusion from, the list does not constitute a final determination

by U.S. EPA concerning the liability of any party for the release or threat of release of hazardous substances at the site.

2. Calling a meeting for Tuesday, August 20, 2002, at 9:30 a.m., in the Steppenwolf Room at the Hotel Allegro Chicago located at 171 West Randolph Street, Chicago, Illinois, at which U.S. EPA and Illinois EPA will: (a) summarize the sampling data gathered at the Site to date; (b) provide copies of any available sampling reports; and (c) provide background information on the potential sources of chlorinated solvent contamination in soil and ground water at the Site.

### **PRP STEERING COMMITTEE**

U.S. EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is critical for successful negotiations with U.S. EPA. The PRPs will be able to use the meeting room after the conclusion of U.S. EPA's presentation on August 20, 2002. Alternatively, U.S. EPA encourages each PRP to select one person from its company or organization who will represent its interests.

### **ADMINISTRATIVE RECORD**

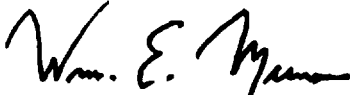
Pursuant to CERCLA Section 113(k), EPA must establish an administrative record that contains documents that form the basis of EPA's decision on the selection of a response action for a site. The administrative record files, which contain the documents related to the response action selected for this site, will be available to the public for inspection and comment. The primary location is generally the EPA Regional office. Details on the contents and availability of this record will be provided at the August 20, 2002, meeting.

### **PRP RESPONSE AND EPA CONTACT**

You are requested to contact U.S. EPA within 30 days of your receipt of this letter to indicate your willingness to perform or finance an RI/FS at the Site. You may respond individually or through a steering committee if such a committee has been formed.

If you have any questions pertaining to this letter, please contact or direct your attorney to contact Thomas Krueger, Associate Regional Counsel, at (312) 886-0562.

Sincerely,



William E. Muno, Director  
Superfund Division

Enclosure

cc: (Letter and all Enclosures)  
Fred Nika, IEPA  
Office of Illinois Attorney General  
Natural Resources Damages Trustees

**SERVICE LIST**

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Scot Incorporated  
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Randy Slaboch, Director of Operations  
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